

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

<b>UNITED STATES OF AMERICA,</b>	:	<b>CASE NO. 1:16-CR-019</b>
	:	
<b>Respondent,</b>	:	
	:	<b>JUDGE BARRETT</b>
<b>v.</b>	:	
	:	
<b>MUNIR ABDULKADER,</b>	:	
	:	
<b>Petitioner.</b>	:	
	:	

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**MOTION FOR EXTENSION OF TIME TO RESPOND**

Respondent United States of America, by and through its attorney, the United States Attorney for the Southern District of Ohio, respectfully moves this Court for an extension of an additional 60 days to respond to Petitioner's Motion under 28 U.S.C. § 2255.

On July 16, 2018, the defendant filed a petition under 28 U.S.C. § 2255 to vacate, set aside, or correct his sentence. (R. 77.) On July 23, 2018, this Court ordered that the government file a response within 21 days, establishing a response date of August 13, 2018. (R. 75.)

One of the petitioner's counts is a claim that his trial attorney provided ineffective assistance of counsel. Specifically, the defendant alleges that he instructed his defense counsel to file a notice of appeal, and that defense counsel did not file a notice of appeal. The claim of ineffective assistance of counsel thus relies on information outside of the record, and assessing its validity requires the consideration of facts known by the defendant's former attorney. Defendant's trial attorney has declined to speak voluntarily with government counsel regarding the defendant's allegations of ineffective assistance of counsel, in light of Formal Opinion 10-

456 of the American Bar Association's Standing Committee on Ethics and Professional Responsibility ("Formal Op. 10-456").

Accordingly, on August 1, 2018, the government filed a motion seeking an order to address the waiver of the attorney-client privilege. That motion is pending. Until the attorney-client privilege is waived in writing or through a court order, the government is unable to converse with petitioner's defense counsel regarding the ineffective assistance claim. Thus, the government is unable to respond at this juncture. Once the Court addresses the pending motion regarding the attorney-client privilege, and the defendant has time to submit the waiver, then government will be able to begin the process of investigating and responding to the ineffective assistance claim.

Therefore, the government respectfully requests that the Court grant a 60-day extension to October 12, 2018 for the government to respond to the petition.

Respectfully submitted,

BENJAMIN C. GLASSMAN  
United States Attorney

s/Timothy S. Mangan  
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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Motion for Order was served this 1<sup>st</sup> day of August, 2018, by regular U.S. Mail on: Inmate Munir Abdulkader (#73031-061), FCI-Talladega, Federal Correctional Institution, P.M.B. 1000, Talladega, AL 35160.

*s/Timothy S. Mangan*

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TIMOTHY S. MANGAN (0069287)

Assistant United States Attorney